

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL MATTER NO. 3:14cr115-DPJ-FKB

MICHAEL THOMAS MCLEMORE

ORDER

Having considered Defendant Michael Thomas McLemore's motion filed under 28 U.S.C. § 2255 [161], the Court concludes that an evidentiary hearing is necessary. And the Government has notified the Court that it does not oppose this finding. Rule 8(c) of the Rules Governing Section 2255 Proceedings for the United States District Courts provides, "If an evidentiary hearing is warranted, the judge must appoint an attorney to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A." *See also United States v. Vasquez*, 7 F.3d 81, 83 (5th Cir. 1993) ("[T]here is a statutory right to appointed counsel in a section 2255 proceeding under Rule 8, 28 U.S.C. § 2255, if an evidentiary hearing is required."). A movant is qualified under § 3006A if "financially unable to obtain adequate representation." On September 11, 2014, United States Magistrate Judge Linda Anderson found McLemore to be indigent. *See* Order Sept. 11, 2014; *see also* Order Appointing Public Defender [39]; CJA20 Appointment [59]. The Court expects that McLemore's status has not changed given his incarceration, but hereby orders the Federal Public Defender to present this issue to Judge Anderson and, upon her approval, either represent McLemore or make a CJA appointment as necessary. Judge Anderson may seek additional evidence of McLemore's indigent status as she

sees fit.

SO ORDERED AND ADJUDGED this the 15th day of March, 2017.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE